

## **SECTION 18. BOARD OF ADJUSTMENT\***

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\*Cross references: Boards, committees and commissions, § 2-111 et seq.

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### **18.1. Establishment.**

A board of adjustment is hereby established in accordance with the provisions of article 1011g, Revised Civil Statutes of Texas, [V.T.C.A., Local Government Code §§ 211.008--211.011] with the powers and duties as provided in said statute and this ordinance.

The board of adjustment shall consist of five members, each to be appointed by the city council of the City of Missouri City, for staggered terms of two years and removable for cause by the appointing authority upon written charges and after public hearing. In addition, there shall be likewise appointed four alternate members of the board of adjustment who shall serve in the absence of one or more regular members when requested to do so by the city manager or the mayor. Alternate members shall be appointed for a term of two years and shall be subject to removal as the regular members. Vacancies shall be filled for the unexpired term of any member, regular or alternate, whose term becomes vacant.

All cases to be heard by the board of adjustment shall be heard by a minimum number of four members.

### **18.2. Powers.**

- A. The board of adjustment shall have the power to hear appeals by any person aggrieved or by any officer, department, board, or bureau of the city affected by any decision of an administrative official in the enforcement of this ordinance. Such appeal shall be taken within 15 days by filing, with the officer from whom the appeal is taken and the board of adjustment, a notice of appeal specifying the grounds thereof. The officer from whom the appeal is taken shall forthwith transmit to the board all the papers constituting the record upon which the action appealed from was taken.
- B. The board of adjustment shall have the power to authorize upon appeal in specific cases such variance from the terms of this ordinance as will not be contrary to the public interest, where, owing to special conditions, a literal enforcement of the provisions of this ordinance will result in unnecessary hardship, and so that the spirit of the ordinance shall be observed and substantial justice done.

In granting such variance, the board of adjustment may prescribe appropriate conditions and safeguards in conformity with this ordinance. Violation of such conditions and safeguards, when made a part of the terms under which the variance is granted, shall be deemed a violation of this ordinance.

Under no circumstances shall the board of adjustment grant a variance to allow a use not permissible under the terms of this ordinance in the district involved, or any use, expressly or impliedly, prohibited by the terms of this ordinance in said district.

- C. The board of adjustment shall have the power in appropriate cases and subject to appropriate conditions and safeguards to hear and decide special exceptions to the terms of this ordinance upon which such board is required to pass under this ordinance.

### **18.3. Hearing.**

The board of adjustment shall fix a reasonable time for the hearing of an appeal, give public notice thereof, as well as due notice to the parties in interest, and decide the same within a reasonable time. Upon the hearing, any party may appear in person or by agent or by attorney. In the exercise of the above-mentioned powers, the board of adjustment may reverse and affirm, wholly or partly, or may modify the order, requirement, decision or determination appealed from and make such order, requirement, decision and determination as ought to be made, and to that end shall have all the powers of the officer from whom the appeal is taken.

### **18.4. Vote required.**

The concurring vote of four members of the board of adjustment shall be necessary to reverse any order, requirement, decision or determination of any administrative official, or to decide in favor of an applicant on any matter upon which it is required to pass under this ordinance, and to affect [effect] any variance of this ordinance.